

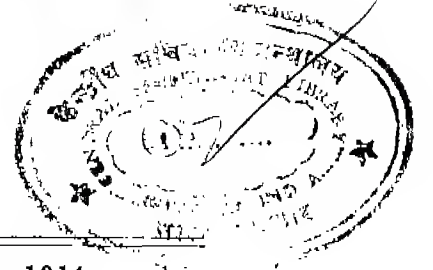


# भारत का राजपत्र The Gazette of India

असाधारण  
EXTRAORDINARY

भाग II—खण्ड 2  
PART II—Section 2

प्राधिकार से प्रकाशित  
PUBLISHED BY AUTHORITY



सं० 47] नई दिल्ली, शुक्रवार, अगस्त 7, 1992/श्रावण 16, 1914  
No. 47] NEW DELHI, FRIDAY, AUGUST 7, 1992/SRAVANA 16, 1914

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।  
Separate paging is given to this Part in order that it may be filed  
as a separate compilation

## LOK SABHA

The following Bills were introduced in Lok Sabha on 7th August, 1992:—

BILL No. 54 OF 1992

*A Bill to provide for certain welfare measures for working children.*

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Working Children Welfare Act, 1992.

(2) It extends to the whole of India.

Short  
title and  
extent.

2. In this Act, unless the context otherwise requires,—

Defini-  
tions.

(a) “accident” means a mishap which a child meets at his place of work and includes any occupational disease which a child contracts from the working conditions at his place of work;

(b) “appropriate Government” means the Central Government or the State Government, as the case may be;

(c) “child” means any person who has not attained the age of fifteen years and who is employed by any employer or contractor to carry out some work;

(d) “contractors” means any person, who, in relation to any process relating to manufacturing, construction, etc., undertakes to complete a given work by executing labour including labour through contract;

(e) "employer" means--

(i) in relation to an establishment which is under the control of the appropriate Government, a person or authority appointed by the appropriate Government, for the supervision and control of employees and where no person or authority is so appointed, the head of the department;

(ii) in relation to an establishment under any local authority the person appointed by such authority for the supervision and control of employees and where no person is so appointed, the chief executive officer of the local authority;

(iii) in any other case, the person who, or the authority which, has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to any other person whether called manager, managing director, or by any other name, such person; and

(iv) in relation to a dwelling unit, the head of *karta* of such family;

(f) "establishment" means--

(i) a factory;

(ii) a mine;

(iii) a plantation;

(iv) a shop;

(v) an agricultural field; and

(vi) any other place where a child is employed;

(g) "factory" means a factory as defined in the Factories Act, 1948; and 63 of 1948.

(h) "prescribed" means prescribed by rules made under this Act.

Establishment of Working Children Welfare Fund.

**3. (1) The Central Government shall establish a fund to be known as the Working Children Welfare Fund.**

**(2) The Central Government and the State Government shall contribute to the fund in such ratio as may be prescribed.**

**(3) Every employer or contractor of a child shall contribute to the fund a sum equal to ten per cent. of the total wages paid to the children employed by him.**

Utilisation of the fund.

**4. The fund established under section 3 shall be utilised for the following purposes, namely :—**

(i) opening of schools for working children for the purpose of imparting free education including technical education to them and for supply of free books, stationery, etc. to them;

(ii) proper upbringing and rehabilitation of every working child; and

(iii) such other material assistance to the working child as may be prescribed.

5. (1) The appropriate Government shall establish out of the fund established under section 3 such number of schools at such places as may be prescribed.

Establishment of schools by the appropriate Government,

(2) The working hours of the schools shall be such as may be prescribed.

6. Every contractor or employer, as the case may be, shall send every child to a school established under section 5.

Duty of the employer or contractor to send every child to school.

7. (1) Every employer or contractor, as the case may be, shall compulsorily insure every child against accident at the place of work.

Compulsory insurance of a child.

(2) The amount of insurance shall be such as may be prescribed.

8. Any person violating the provisions of sections 6 and 7 shall be punished with imprisonment for a term which may extend to six months or with a fine of rupees five thousand or with both.

Punishment.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

10. The provisions of this Act shall apply notwithstanding anything contained to the contrary in any other law for the time being in force.

Overriding effect of the Act.

## STATEMENT OF OBJECTS AND REASONS

Working children constitute a considerable work force in our country despite the existence of various laws prohibiting their employment. Although the Constitution of India prohibits employment of children in hazardous occupations yet they can be seen working in carpet factories, beedi factories, bangles, industry, circus, hotels, tea stalls, *dhabas*, workshops of motor vehicles, agricultural fields and even as domestic workers either for their own subsistence or to support their poor families. They work under pathetic and unhygienic conditions. Though they are talented they remain illiterate because they cannot attend schools. They are paid meagre wages. In case of accident or dangerous disease affecting them they are left to fend for themselves.

It is true that children must enjoy their childhood. They must get nutritious diet, good education and good atmosphere to grow as responsible citizens of the country but at the same time we have to accept the reality. Now the time has come to accept the bare truth that we cannot abolish child labour by laws which will certainly enlarge the statute book but cannot discourage child employment. They must get minimum wages. The Government should open schools and training institutions for them.

A welfare fund should also be established for the benefit of the working children so that they are also able to lead a better life.

Hence this Bill.

NEW DELHI;  
February 21, 1992

BASAVA RAJESWARI.

### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of Working Children Welfare Fund by the Central Government. The Central Government and the State Governments shall contribute to the fund in such ratio as may be determined. Clause 7 provides for compulsory insurance of every child by the employer or contractor, as the case may be. As far as the expenditure in the States is concerned, it shall be borne by the states out of their respective consolidated funds. In case of expenditure in the Union territories, it shall be borne out of the Consolidated Fund of India. Moreover, the Central Government may have to provide financial assistance to the States for carrying out the purposes of the Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees ten crores per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees ten lakhs is also likely to be involved.

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### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 72 OF 1992

*A Bill to check unauthorised entry of foreign nationals into the country and for their deportation and for matters connected therewith*

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short  
title and  
extent.

1. (1) This Act may be called the Prevention of Influx of Foreign Nationals in the Country Act, 1992.

(2) It extends to the whole of India.

Defini-  
tions.

2. In this Act, unless the context otherwise requires.—

(a) “dependent” includes wife and children of an unauthorised foreign national;

(b) “document” includes a valid passport, visa or a travel permit;

(c) "prescribed" means prescribed by rules made under this Act; and

(d) "unauthorised foreign national" means a person who has entered or sneaked into the country without a document.

**3. (1) Notwithstanding anything contained in any other law for the time being in force, the Central Government shall, as soon as may be, after the commencement of this Act, undertake a census of all the unauthorised foreign nationals living in the country.**

Census  
of un-  
author-  
ised  
foreign  
nationals.

(2) The census data so collected shall be made public forthwith through notification in the Official Gazette.

**4. (1) The Central Government shall, soon after the census is over, prepare a list of unauthorised foreign nationals in the country and draw a phased programme of their deportation to the countries of their origin.**

Deporta-  
tion of  
unauthor-  
ised  
foreign  
nationals.

(2) No unauthorised foreign national shall be allowed to stay in the country on the ground of his long and continuous stay or his having acquired immovable property in the country.

(3) No educational facilities, financial assistance or such other assistance as may be prescribed, shall be provided to an unauthorised foreign national in the country.

**5. Whoever gives shelter to an unauthorised foreign national or conceals the identity of such person shall be punishable with imprisonment which may extend to three years and also liable to fine.**

Punish-  
ment  
for  
giving  
shelter  
to un-  
author-  
ised  
foreign  
nationals.

**6. With a view to preventing entry of unauthorised foreign nationals in the country through land routes, the Central Government shall take the following steps, namely,—**

Measures  
to pre-  
vent  
entry of  
un-  
author-  
ised  
foreign  
national

(a) to provide border fencing and establish the required number of check posts along the international borders of the country;

(b) simultaneously create a security belt along the international borders of the country; and

(c) intensify its vigil along the entire sea coast of the country.

**7. (1) The Central Government shall prepare and maintain a National Register containing names and other particulars, as may be prescribed, of all the citizens who are continuously staying in the country since fifteenth day of August, 1947.**

Mainte-  
nance of  
National  
Register.

(2) The Central Government shall, before the name of a citizen is entered in the register, ascertain the bonafides of that person or his parents

(3) The names of unauthorised foreign nationals or their dependents or descendents shall not be entered in the register.

Identity  
cards to  
citizens.

8. Every citizen of the country shall be issued an identity card duly signed by the District Magistrate or any other Officer, of the Central Government or the State Government, who may be authorised in this behalf by the Central Government.

Deporta-  
tion of  
persons  
overstay-  
ing in  
the  
country.

9. The Central Government shall take necessary steps to—

(a) detect cases of foreign nationals who came to India on the basis of valid documents but did not leave the country on the expiry of the time limit specified in their documents;

(b) deport the persons referred to in clause (a) to the countries of their origin;

(c) publish a list of persons who over-stayed in the country and were later declared as untraceable; and

(d) trace such persons and deport them to the countries of their origin.

Assis-  
tance to  
foreign  
nationals  
com-  
pelled to  
migrate  
to India.

10. Notwithstanding anything contained in this Act or the Citizenship Act, 1955, the Central Government may, on an application made in the prescribed form, grant civil, political and citizenship rights to the nationals from Pakistan or Bangladesh who were or are compelled to migrate to India due to religious persecution, discrimination, victimisation or intimidation.

57 of 1955.

Applica-  
tion of  
other  
laws not  
barred.

11. The provisions of this Act shall be in addition to and not in derogation of the Foreigners Act, 1946 and the Illegal Migrants (Determination by Tribunals) Act, 1983, or any other law for the time being in force.

31 of 1946.

39 of 1983.

Power to  
make  
rules.

12. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.



## STATEMENT OF OBJECTS AND REASONS

There has been a large scale influx of unauthorised foreign nationals into our country since 1947. This has put a heavy burden on the country which is already affected by over population. The presence of unauthorised foreign nationals in the country has also been a source of threat to the security and integrity of the country.

It is necessary to detect all unauthorised foreign nationals and deport them to the countries of their origin. There is also need to maintain a National Register of all the citizens and to issue identity cards to them.

The Bill seeks to achieve the above objectives.

NEW DELHI;  
March 7, 1992.

BASAVA RAJESWARI

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for conducting census of all the unauthorised foreign nationals in the country. Clause 4 provides for a phased programme of deportation of unauthorised foreign nationals to the countries of their origin. Clause 6 provides for measures to prevent entry of unauthorised foreign nationals. Clause 7 provides for maintenance of a National Register of citizens. Clause 8 provides for issuing of identity cards to all citizens of the country. Therefore, the Bill, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of rupees ten crores per annum.

A non-recurring expenditure to the tune of rupees fifteen lakhs is also likely to be incurred.

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## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 82 OF 1992

*A Bill to provide for free accommodation and other facilities to the families having one child and to all unmarried persons and for matters connected therewith.*

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Small Family Norm (Promotion and Motivation) Act, 1992.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means the Central Government or the State Government, as the case may be;

(b) “family” means and includes both the husband and the wife; and

Short  
title,  
extent  
and  
commen-  
cement.

Definitions.

(c) "Government service" means services under the control of the Central Government or a State Government and includes services in public undertakings owned either wholly or partially by the Central Government or a State Government.

Incentives  
for adop-  
ting small  
family  
norm.

3. (1) The appropriate Government shall provide to every family, which has only one living child, whether male or female, the following benefits, namely:—

- (i) a two bed room flat of appropriate size;
- (ii) free education including higher education to the child;
- (iii) preference in promotion to higher posts if the husband and/or wife are in Government service;
- (iv) old age pension if neither the husband nor the wife is in the Government service; and
- (v) free pass to the family including the child to travel in second class in railways.

(2) The benefits referred to in sub-section (1) shall be withdrawn if the family procreates the second child.

Incen-  
tives to  
unmar-  
ried  
persons.

4. (1) The appropriate Government shall provide to every person, who has attained the age of twenty-one years and who gives an undertaking to the effect that he or she will not marry throughout the life, the following benefits, namely:—

- (i) a single bed room flat of appropriate size;
- (ii) free education including higher education;
- (iii) preference in promotion to higher posts if he or she is in Government service;
- (iv) old age pension if he or she is not in Government service; and
- (v) free pass to travel in second class in railways.

(2) If any person, referred to in sub-section (1), marries in his or her life time,—

- (i) the benefits given to him shall be withdrawn; and
- (ii) such person shall also not be eligible for the benefits referred to in sub-section (1) of section (3).

Morato-  
rium on  
marri-  
ages.

5. (1) There shall be a moratorium on marriages for a period of two years from the date of coming into force of this Act.

(2) The moratorium referred to in sub-section (1) shall be repeated after a gap of five years.

(3) Any person, including the bridegroom, the bride or their parents or any person who performs the marriage ceremony, who violates the provisions of this section or abets in such violation shall be punished with rigorous imprisonment which shall not be less than five years and with fine amounting to rupees five thousand.

Power  
to make  
rules.

6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

### STATEMENT OF OBJECTS AND REASONS

In India, the rapid increase in population is causing great concern and the programmes so far initiated by the Government to curb this increase in population have yielded less results. The fear in the minds of the people that if they do not have three or four children they will have to suffer during their old age should be eliminated by giving them some incentives or facilities for following the small family norm as such a step will create a sense of security in them for old age.

It is, therefore, imperative that certain effective incentives should be given to all those couples who procreate only one child and also to those who refrain from marrying. These steps will go a long way in checking the rapid increase in the population of the country.

The Bill seeks to achieve the above objective.

NEW DELHI;  
April 2, 1992.

R. SURENDER REDDY

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government shall provide to every family, which has only one living child, with certain benefits like two bed room flat, free education including higher education to the child, etc. Clause 4 provides for certain benefits like single bed room flat, etc. to be given by the appropriate Government to those persons who have attained the age of 21 years and who give an undertaking to the effect that they will not marry throughout their life.

The Central Government shall have to incur some expenditure from the Consolidated Fund of India for implementing the provisions of the Bill in respect of the Union territories. The Central Government may have to extend some financial assistance to the State Governments also.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees two hundred crores per annum.

A non-recurring expenditure of about rupees twenty-five lakhs is also likely to be involved.

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## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules to be made will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 97 OF 1992

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1992. Short title.
2. In article 371 of the Constitution, for clause (2), the following clause shall be substituted, namely:— Amendment of article 371.
  - “(2) Notwithstanding anything in this Constitution, the President—
  - (i) may by order made with respect to the State of Maharashtra or Gujarat, except Saurashtra and Kutch areas; and
  - (ii) shall by order made with respect to Saurashtra and Kutch areas of the State of Gujarat,

provide for any special responsibility of the Governor for—

(a) the establishment of separate development boards—

(i) for Vidarbha, Marathwada, and the rest of Maharashtra or the State of Gujarat, except Saurashtra and Kutch areas; or

(ii) for Saurashtra and Kutch areas of the State of Gujarat within one year of the coming into force the Constitution (Amendment) Act, 1992,

with the provision that a report on the working of each of these boards will be placed each year before the State Legislative Assembly;

(b) the equitable allocation of funds for developmental expenditure over the said areas, subject to the requirements of the State as a whole; and

(c) an equitable arrangement providing adequate facilities for technical education and vocational training, and adequate opportunities for employment in services under the control of the State Government, in respect of all the said areas, subject to the requirements of the State as a whole.”.



## STATEMENT OF OBJECTS AND REASONS

Saurashtra and Kutch areas of the State of Gujarat are the most backward and least developed areas. Separate development boards should be urgently set up for Saurashtra and Kutch areas of the State of Gujarat so as to facilitate investment in and development of these areas.

The Bill seeks to achieve the above objective.

NEW DELHI;  
*April 29, 1992.*

DILEEPBHAI SANGHANI.

## BILL NO. 96 OF 1992

*A Bill to provide for fixing the quorum required to constitute a meeting of either House of Parliament.*

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short  
title.

1. This Act may be called the Parliament (Quorum of House) Act, 1992.

Quorum  
in Houses  
of Parlia-  
ment.

2. The quorum to constitute a meeting of either House of Parliament shall be one-fifth of the total number of members of the House.

## STATEMENT OF OBJECTS AND REASONS

Under article 100(3) of the Constitution, Parliament is empowered to make a law to provide for fixing the quorum required to constitute a meeting of either House of Parliament. So far no law has been enacted in this regard. The article further provides that until Parliament by law otherwise provides, the quorum to constitute a meeting of a House shall be one-tenth of the total number of members of the House. This number prescribed to constitute the quorum of the House is too small a number as many important decisions are taken in the House which concern the common man and the country as a whole.

It is, therefore, necessary that a law should be brought forward wherein quorum required to constitute a meeting of either House of Parliament should be fixed. Accordingly, it is proposed that the quorum required to constitute a meeting of a House of Parliament should be raised to one-fifth of the total number of members of the House, instead of one-tenth as at present.

The Bill seeks to achieve the above objective.

DILEEPBHAI SANGHANI

NEW DELHI;  
April 29, 1992.

## BILL NO. 112 OF 1992

*A Bill to provide for reservation of vacancies in posts for Scheduled Castes and Scheduled Tribes in Universities and Colleges.*

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short  
title.

1. This Act may be called the Universities and Colleges (Reservation of Vacancies in Posts for Scheduled Castes and Scheduled Tribes) Act, 1992.

Defini-  
tions.

2. In this Act, unless the context otherwise requires,—

(a) 'college' includes any college which is owned or funded, either wholly or partly, by a State Government or a Union territory administration and also a privately owned college;

(b) 'post' means and includes the post of a professor, lecturer or Librarian or any other non-teaching and administrative staff in any University or college;

(c) 'University' has the same meaning as is assigned to it in section 2(f) of the University Grants Commission Act, 1956.

3. Of the total number of posts in all Universities and colleges there shall be reserved sixteen per cent. for the Scheduled Castes and eight per cent. for the Scheduled Tribes.

Reserva-  
tion of  
posts in  
Universi-  
ties and  
colleges  
for  
Schedul-  
ed Castes  
and Sched-  
uled Tribes.

4. After section 13 of the University Grants Commission Act, 1956, the following sections shall be inserted, namely:—

Amend-  
ment of  
Act No. 3  
of 1956.

"13A. (1) The Commission shall set up a Committee, consisting of such number of members of the Commission as the Chairman of the Commission may deem fit, for the purpose of monitoring the implementation of the provisions of the "Universities and colleges (Reservation of Vacancies in Posts for Scheduled Castes and Scheduled Tribes) Act, 1992.

Setting  
up of a  
Commit-  
tee to  
monitor  
reserva-  
tion for  
Schedul-  
ed Cast-  
es and  
Schedul-  
ed Trib-  
es in Uni-  
versiti-  
es and  
colleges.

(2) The Committee set up under sub-section (1) shall submit an annual report to the Commissioner for Scheduled Castes and Scheduled Tribes as regards the implementation of the provisions of the above said Act.

Conse-  
quences  
of failure  
of Univer-  
sities  
for not  
ensuring  
reserva-  
tion for  
Schedul-  
ed Cast-  
es and  
Schedul-  
ed Tribes.

13B. If any University is found guilty of violating the provisions of the Universities and colleges (Reservation of Vacancies in Posts for Scheduled Castes and Scheduled Tribes) Act, 1992, the Commission shall withhold from such University the grants proposed to be made out of the fund of the Commission."

Cancellat-  
ion of  
recogni-  
tion of  
Universi-  
ties and  
colleges.

5. If any University or college violates the provisions of this Act, the recognition or affiliation of such University or college shall be cancelled by the University Grants Commission or the State Government or Union territory administration, as the case may be.

Act to  
have  
over-  
riding  
effect.

6. The provisions of this Act shall apply notwithstanding anything contained to the contrary in any other law for the time being in force.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to  
make  
rules.

## STATEMENT OF OBJECTS AND REASONS

The Constitution of India provides for reservation of seats for Scheduled Castes and Scheduled Tribes in Lok Sabha and in State Legislative Assemblies in proportion to their population in the country. Likewise, posts in Government services are reserved for them.

At present, the reservation in posts and services for Scheduled Castes and Scheduled Tribes in Universities and Colleges is not strictly adhered to and there is no proper check in this regard. Although the Universities and Colleges are autonomous in nature, their expenditure is wholly or partly met by the concerned Government.

It is accordingly proposed to make reservation compulsory in all posts in all Universities and Colleges for Scheduled Castes and Scheduled Tribes and to provide for cancellation of their recognition or affiliation in the event of violation of this provision. A provision has also been made for constitution of a Committee to look into the proper implementation of the provisions of the Bill.

Hence this Bill.

NEW DELHI;  
June 19, 1992.

MOHAN SINGH.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of the legislative powers is of a normal character.

## BILL No. 109 OF 1992

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short  
title.

1. This Act may be called the Constitution (Amendment) Act, 1992.

Insertion  
of new  
article  
330A.

2. After article 330 of the Constitution, the following article shall be inserted, namely:—

Reserva-  
tion of  
seats for  
Scheduled  
Castes  
and  
Scheduled  
Tribes  
in the  
Council  
of States.

“330A. (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in the Council of States.

(2) The number of seats reserved in any State or Union territory for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State or Union territory in the Council of States as the number of seats reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in



that State or Union territory in the House of the People bears to the total number of seats allotted to that State or Union territory in the House of the People.”.

3. After article 332 of the Constitution, the following article shall be inserted, namely:—

Insertion  
of new  
article  
332A.

“332A. (1) Seats shall be reserved in the Legislative Council of every State, where such a Council exists, for the Scheduled Castes and the Scheduled Tribes.

Reserva-  
tion of  
seats for  
Scheduled  
Castes  
and  
Scheduled  
Tribes  
in the  
Legisla-  
tive  
Councils  
of the  
States.

(2) The number of seats reserved in any State for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats in the Legislative Council of that State as the number of seats reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in the Legislative Assembly of the State bears to the total number of seats in the Legislative Assembly of the State.

(3) Of the total number of members elected from seats reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in the Legislative Council of a State—

(a) as nearly as may be, one-third shall be elected by electorates consisting of members of municipalities, district boards and such other local authorities in the State as Parliament may by law specify;

(b) as nearly as may be one-twelfth shall be elected by electorates consisting of persons residing in the State who have been for at least three years graduates of any university in the territory of India or have been for at least three years in possession of qualifications prescribed by or under any law made by Parliament as equivalent to that of a graduate of any such university;

(c) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons who have been for at least three years engaged in teaching in such educational institutions within the State not lower in standard than that of a secondary school, as may be prescribed by or under any law made by Parliament;

(d) as nearly as may be, one-third shall be elected by the members of the Legislative Assembly of the State from amongst persons who are not members of the Assembly;

(e) the remainder shall be nominated by the Governor in accordance with the provisions of clause (5).

(4) Notwithstanding anything contained in clause (3), the Central Government may, after consultation with the Governor of the State, prescribe the manner in which the seats reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in the Legislative Council of the State shall be filled in, if the number of such reserved seats is less than twelve.

(5) The members to be nominated by the Governor under sub-clause (e) of clause (3) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely:—

Literature, science, art, co-operative movement and social service."

Amend-  
ment of  
article  
334.

4. In article 334 of the Constitution, after clause (a), the following clause shall be inserted, namely:—

"(aa) the reservation of seats for the Scheduled Castes and the Scheduled Tribes in the Council of States and in the Legislative Councils of the States;".

## STATEMENT OF OBJECTS AND REASONS

Although, the Constitution of India provides for the reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People and in the Legislative Assemblies of the States, it is unfortunate that even after forty-two years of the enforcement of the Constitution of India, there is no provision as regards the reservation of seats for them in the Council of States and in the Legislative Council of State, where such a Council exists.

In order to uphold the principle of social justice, it is, therefore, imperative that the seats be reserved for the Scheduled Castes and the Scheduled Tribes in the Council of States and in the Legislative Councils of the States.

The Bill seeks to achieve the above objective.

NEW DELHI;

MOHAN SINGH

*June 19, 1992.*

## BILL No. 107 OF 1992

*A Bill further to amend the Representation of the People Act, 1951.*

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short  
title.

1. This Act may be called the Representation of the People (Amendment) Act, 1992.

Insertion of  
new Part  
IVAA,

2. After Part IVA of the Representation of the People Act, 1951, the following Part shall be inserted, namely:—

“PART IVAA

AUDITING OF ACCOUNTS OF  
POLITICAL PARTIES

Submis-  
sion of  
audited  
annual  
account  
by politi-  
cal par-  
ties to the  
Commis-  
sion.

29B. (1) Every political party, after its registration as a political party under section 29A, shall keep an account of all its receipts and expenditure at its registered office.

(2) Each registered political party shall get its account audited at least once in a calendar year by an auditor who shall be a chartered accountant registered under the Chartered Accountants Act, 1949.

(3) The auditor appointed under sub-section (2) shall have a right of access at all times to the books of accounts and vouchers of

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the political party whether kept at the registered office or elsewhere and shall be entitled to require such information and explanations from the political party as the auditor may think necessary for the performance of his duties as auditor.

(4) The auditor shall make a report to the political party on the accounts examined by him and a copy of the accounts and the audit report thereon duly authenticated by the auditor shall be lodged, as soon as may be, with the Commission by the concerned political party.

(5) If any political party fails to lodge an authenticated copy of the accounts and the audited report thereon with the Commission within three months of the closing of the calendar year or within such further time as may be granted by the Commission, the Commission shall, after giving a reasonable opportunity to the concerned political party, cancel the registration of such political party and the decision of the Commission in such cases shall be final."

## STATEMENT OF OBJECTS AND REASONS

Parliamentary democracy can succeed only when transparency in public life is considerably guaranteed. In order to create conditions for transparent public life, the accountability of the political parties, particularly in matters relating to the methods of collecting funds and handling them has decisive role.

Use of money power to win election has become a bane of our polity now. Unbridled generation and operation of black money results in corruption in the society which corrode the political system in diverse ways. Political parties cannot remain immune to these corroding effects.

Funds are sometimes funnelled from questionable sources outside country for financing political activities within the country, including elections. This enhances the vulnerability of the country to outside pressures with disastrous implications.

Regular auditing of the accounts of the political parties, and submission of those to the Election Commission, it is expected, may contribute towards ensuring the transparency of the financial transactions of the political parties. Transparency of the political parties can alone lead to the transparency in public life which is needed most for the survival of democracy.

The Bill proposes to achieve the above objective.

NEW DELHI;  
*June 19, 1992*

CHITTA BASU.

## BILL NO. 98 OF 1992

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1992.

Short  
title.

2. In article 22 of the Constitution, clause (6) shall be omitted.

Amend-  
ment of  
article 22.

## STATEMENT OF OBJECTS AND REASONS

Recent experience has shown that the fundamental rights, including those of life and liberty, granted to citizens by the Constitution are being eroded by the executive. As a check against the misuse of preventive detention laws and to put the right to life and liberty on a more secure footing, it is necessary that the power to withhold the facts or grounds of detention in respect of any detenu, which the concerned authority considers to be against the public interest to disclose, should be done away with.

Hence this Bill.

NEW DELHI;  
*June* 19, 1992.

CHITTA BASU.



BILL No. 108 OF 1992

*A Bill further to amend the Indian Telegraph Act, 1885 and the Indian Post Office Act, 1898.*

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Personal Liberties (Protection) Bill, 1992.

(2) It shall come into force at once.

2. Section 5 of the Indian Telegraph Act, 1885, shall be omitted.

3. In section 26 of the Indian Post Office Act, 1898,—

(i) in sub-section (1) for the words “On the occurrence of any public emergency or in the interest of the public safety or tranquility”, the words “On the issue of a proclamation of Emergency by the President under article 352 of the Constitution of India and during the period in which such a Proclamation is in force” shall be substituted; and

(ii) sub-section (2) shall be omitted.

Short  
title and  
com-  
mence-  
ment.

Omission  
of section  
5 of Act  
13 of 1885.

Amend-  
ment of  
section  
26 of Act  
6 of 1898

## STATEMENT OF OBJECTS AND REASONS

The Indian Telegraph Act, 1885 and the Indian Post Office Act, 1898 were enacted during the foreign rule to meet the exigencies of that period and to suit the imperialist interests.

The said Acts delegated power to certain Government officials to intercept telegraphic messages and postal articles under section 5 of the Indian Telegraph Act and under section 26 of the Indian Post Office Act respectively.

With the advent of independence and democratic Constitution guaranteeing fundamental rights, conditions have vastly changed.

In the present context, such provisions for the right to intercept by the Government are violative of the fundamental rights of freedom of speech and expression. It is also an infringement on the personal liberty of the citizens. This is an anachronism. And this Bill seeks to remove this.

NEW DELHI;  
*June 19, 1992.*

CHITTA BASU

## BILL NO. 101 OF 1992

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1992.

Short  
title.

2. In article 124 of the Constitution,—

Amend-  
ment of  
article 124.

(i) In clause (1), for the words “a Chief Justice of India”, the words “a Chief Justice of India, a Deputy Chief Justice of India” shall be substituted;

(ii) In the first proviso to clause (2), for the words “a Judge other than the Chief Justice” the words “a Judge or the Deputy Chief Justice of India” shall be substituted.

Substitution of new article for article 126.

3. For article 126 of the Constitution, the following article shall be substituted, namely:—

The Deputy Chief Justice of India to act as Chief Justice of discharge his functions during casual vacancies in the office, or during the absence, of Chief Justice of India.

“126. (1) In the event of the occurrence of any vacancy in the office of the Chief Justice of India by reason of his death, resignation or removal, or otherwise, the Deputy Chief Justice of India shall act as the Chief Justice of India until the date on which a new Chief Justice of India is appointed by the President.

(2) When the Chief Justice of India is unable to discharge his functions owing to absence, illness or any other cause, the Deputy Chief Justice of India shall discharge his functions until the date on which the Chief Justice of India resumes his duties.

(3) The Deputy Chief Justice of India shall, during, and in respect of, the period while he is so acting, or discharging the functions of a Chief Justice of India have all the powers of the Chief Justice of India and be entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified for the Chief Justice in the Second Schedule.”.

Amendment of article 130.

4. Article 130 of the Constitution shall be re-numbered as clause (1) thereof and after clause (1) as so re-numbered, the following clause shall be added, namely:—

“(2) Notwithstanding the provisions of clause (1), a Bench of the Supreme Court presided over by the Deputy Chief Justice of India shall be appointed to sit in Hyderabad, and such of the Judges of the Supreme Court being not less than four in number, as the Chief Justice of India may from time to time nominate, shall sit in Hyderabad with jurisdiction over and the law administered in the High Courts in the States of Andhra Pradesh, Karnataka, Kerala and Tamil Nadu:

Provided that the permanent Bench of the Supreme Court at Hyderabad may be vested with jurisdiction over and the law administered in any other High Court, in addition to the High Courts mentioned in this clause, as the Chief Justice of India may from time to time determine.”.

## STATEMENT OF OBJECTS AND REASONS

There has been a long standing demand from the people of the southern States of the country for setting up of a Bench of the Supreme Court in the southern region. At present, the litigants from these States have to come to Delhi in connection with their cases in the Supreme Court. It is a time consuming and costly affair for them.

In order to provide cheap and speedy justice to the public, it is essential that a Bench of the Supreme Court should be established in the southern region. This measure will also reduce the pressure on the Supreme Court.

Article 130 of the Constitution enables the Chief Justice of India to appoint the place or places of sittings of the Supreme Court other than in Delhi. It is, accordingly, proposed that a Bench of the Supreme Court may be appointed to sit in Hyderabad to cater to the needs of people from southern States.

Hence this Bill.

NEW DELHI;  
June 19, 1992.

R. SURENDER REDDY

## FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the appointment of a Deputy Chief Justice of India. The Central Government will have to incur expenditure in terms of payment of salary, pension, etc. to the new appointee.

Clause 4 provides for the establishment of a permanent Bench of the Supreme Court at Hyderabad. There will be some expenditure in connection with the administration of the Bench, salaries and allowances of officers and other employees, etc. However, there will be no expenditure in respect of salaries and allowances of the Judges in as much as they are already functioning in the Supreme Court. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India.

It is estimated that an annual recurring expenditure of about rupees one crore is likely to be involved from the Consolidated Fund of India. A non-recurring expenditure to the tune of rupees fifty lakhs is also likely to be involved.

## BILL NO. 110 OF 1992

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows :—

- |  |   |
|--|---|
| 1. This Act may be called the Constitution (Amendment) Act, 1992.  | Short<br>title.   |
| 2. After article 330 of the Constitution, the following articles shall be inserted, namely :—  | Insertion<br>of new<br>articles<br>330A and<br>330B.  |
| “330A. (1) Seats shall be reserved in the House of the People for the Other Backward Classes.  | Reserva-<br>tion of<br>seats for<br>Other<br>Back-<br>ward<br>Classes<br>in the<br>House<br>of the<br>People. |
| (2) The number of seats reserved in any State or Union territory for the other Backward Classes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State or Union territory in the House of the People as the population of the Other Backward Classes in the State or Union territory or part of the State or Union territory, as the case may be, in respect of |   |

which seats are so reserved, bears to the total population of the State or Union territory.

*Explanation.*—In this article and in article 332A, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this Explanation to the last preceding census of which the relevant figures have been published shall until the relevant figures for the first census taken after the year 2000 have been published, be construed as a reference to the 1971 census.

Reserva-  
tion of  
seats for  
Other  
Backward  
Classes  
in the  
Council  
of  
States.

330B. (1) Seats shall be reserved in the Council of States for the Other Backward Classes.

(2) The number of seats reserved in any State or Union territory for the Other Backward Classes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State or Union territory in the Council of States as the number of seats reserved for the Other Backward Classes in that State or Union territory in the House of the People bears to the total number of seats allotted to that State or Union territory in the House of the People.”.

Insertion  
of new  
articles  
332A and  
332B.

3. After article 332 of the Constitution, the following articles shall be inserted, namely:—

Reservation  
of seats  
for  
Other  
Backward  
Classes  
in the  
Legislative  
Assemblies  
of the  
States.

“332A. (1) Seats shall be reserved for the Other Backward Classes in the Legislative Assembly of every State.

(2) The number of seats reserved for the Other Backward Classes in the Legislative Assembly of any State under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Other Backward Classes in the State or part of the State, as the case may be, in respect of which seats are so reserved, bears to the total population of the State.

Reserva-  
tion of  
seats for  
Other  
Back-  
ward  
Classes  
in the  
Legislative  
Councils  
of the  
States.

332B. (1) Seats shall be reserved in the Legislative Council of every State, where such a Council exists, for the Other Backward Classes.

(2) The number of seats reserved in any State for the Other Backward Classes under clause (1) shall bear as nearly as may be, the same proportion to the total number of seats in the Legislative Council of that State as the number of seats reserved for the Other Backward Classes in the Legislative Assembly of the State bears to the total number of seats in the Legislative Assembly of the State.



(3) Of the total number of members elected from seats reserved for the Other Backward Classes in the Legislative Council of a State—

(a) as nearly as may be one-third shall be elected by electorates consisting of members of municipalities district boards and such other local authorities in the State as Parliament may by law specify.

(b) as nearly as may be one-twelfth shall be elected by electorates consisting of persons residing in the State who have been for at least three years graduates of any university in the territory of India or have been for at least three years in possession of qualification prescribed by or under any law made by Parliament as equivalent to that of a graduate of any such university;

(c) as nearly as may be one-twelfth shall be elected by electorates consisting of persons who have been for at least three years engaged in teaching in such educational institutions within the State, not lower in standard than that of a secondary school as may be prescribed by or under any law made by Parliament;

(d) as nearly as may be one-third shall be elected by the members of the Legislative Assembly of the State from amongst persons who are not members of the Assembly;

(e) the remainder shall be nominated by the Governor in accordance with the provisions of clause (5).

(4) Notwithstanding anything contained in clause (3), the Central Government may, after consultation with the Governor of the State, prescribe the manner in which the seats reserved for the Other Backward Classes in the Legislative Council of the State shall be filled in, if the number of such reserved seats is less than twelve.

(5) The members to be nominated by the Governor under sub-clause (e) of clause (3) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely:—

Literature science, art, co-operative movement and social service.”.

#### 4. In article 334 of the Constitution.—

Amend-  
ment of  
article  
334.

(i) in clause (a), for the words “the Scheduled Castes and the Scheduled Tribes”, the words “the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes” shall be substituted: and

(ii) after clause (a), the following clause shall be inserted, namely:—

“(aa) the reservation of seats for Other Backward Classes in the Council of States and in the Legislative Councils of the States;”.

Insertion  
of new  
article  
342A,

5. After article 342 of the Constitution, the following article shall be substituted, namely:—

Other  
Back-  
ward  
Classes.

“342A. (1) The Central Government shall, within six months of the coming into force of the Constitution (Amendment) Act, 1992, with respect to all States and Union territories, and where it is a State, after consultation with the Governor thereof, by public notification, specify the Other Backward Classes which shall for the purposes of article 330A, 330B, 332A and 332B be deemed to be the Other Backward classes in relation to that State or Union territory, as the case may be.

(2) Parliament may by law include in or exclude from the list of Other Backward Classes specified in a notification issued under clause (1) any class or part of or group within any class, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.”.

## STATEMENT OF OBJECTS AND REASONS

The population of India is about eighty-five crores. At present, eighty-Scheduled Tribes have already been given representation in the House of the Scheduled Tribes and the Other Backward Classes. The Scheduled Castes and People on the basis of their population, keeping in view, the principle of social justice. Similarly, about sixty-two per cent. of our population, which constitute Other Backward Classes, have not yet been given any representation either in the House of the People or Council of States or in the Legislative Assemblies or Legislative Councils in the States. After 45 years of Independence, communities of Other Backward Classes are still economically, educationally politically and socially backward. It is, therefore, imperative that the seats be reserved for the Other Backward Classes in the House of the People, Council of States, Legislative Assemblies and in the Legislative Councils so as to uphold the principle of social justice.

The Bill seeks to achieve the above objective.

NEW DELHI;  
June 20, 1992.

K. P. REDDAIAH YADAV.

## BILL NO. 104 OF 1992

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short  
title.

1. This Act may be called the Constitution (Amendment) Act, 1992.

Insertion  
of new  
article  
31.

2. After article 30 of the Constitution, the following sub-heading and article shall be inserted, namely:—

**‘Pollution Free Environment**

Right to  
pollution  
free  
environ-  
ment.

31. (1) Every citizen shall have the right to pollution free environment.

(2) For the purposes of clause (1), the State shall—

(a) secure pollution free environment within a period of three years from the coming into force of the Constitution (Amendment) Act, 1992;

(b) afforest thirty per cent. of the total land area of the country  
Within a period of five years from the coming into force of the  
Constitution (Amendment) Act, 1992.

(3) Parliament may by law provide for measures to protect and improve the environment and to safeguard the forests and wild life of the country and for the purpose may determine the conditions which would constitute pollution free environment.

*Explanation.*—‘Pollution free environment’ means the amount of dust, smoke, noise, carbon dioxide, carbon monoxide or any other pollutant which is hazardous to human beings, other living creatures, plants and forests, in air, land and water, shall not exceed such levels as Parliament may by law determine.”.

3. Article 48A of the Constitution shall be omitted.

Omission  
of article  
48A.

## STATEMENT OF OBJECTS AND REASONS

Despite the existence of various laws preventing the environmental pollution such as water pollution, air-pollution, etc., the position has not improved even after 44 years of independence. The main reason for pollution is the lack of sewerage and drainage facilities. Thermal power plants, petrochemical plants and other industrial plants and improper maintenance of automobiles are not only polluting our environment but are also causing acute and chronic problems which are hazardous to human life. It is surprising that although many laws are there for the improvement of environment, our environment is getting polluted day by day. If we keep on neglecting this basic problem, the day will come when all of us will be carrying oxygen masks to save our lives. Today our development projects, which are carried out for the betterment of the society are not only polluting the environment but are also nullifying the socio-economic benefits which they are supposed to provide. It is therefore necessary that a balance should be maintained between the technology advancement and nature and it can be possible only when it becomes obligatory and compulsory on the State.

Forest area should also be increased to 30 per cent. of the total land area. Fuel requirements and other requirements of the industry have reduced the area under the forests. Forests are a source of earning foreign exchange by way of export of various forest products like teak, rawwood, etc. and have provided employment to many. They are helpful in environment improvement, conservation of soil, etc. It is, therefore, necessary that the State should bring at least 30 per cent of the land area under forests throughout the country.

It is a fact that scientific and technological advancement is the key to progress. However, it can also be not denied that if this progress leads to pollution of our environment and disturbs the order of the nature in a way that is hazardous to human life, it becomes the responsibility of the State to provide its citizens with pollution free environment. Otherwise the whole development is meaningless.

Therefore, it is proposed to amend the Constitution with a view to making pollution free environment a fundamental right and it is left to State to safeguard the interests of citizens in this regard.

Hence this Bill.

NEW DELHI;  
June 22, 1992.

BHAGWAN SHANKAR RAWAT.

## FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that every citizen of the country shall have the right to pollution free environment and for this purpose the State shall secure pollution free environment and afforest 30 per cent. of the total land area of the country within a prescribed time. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. At this stage the exact amount of expenditure to be incurred for giving effect to the provisions of the Bill cannot be given.

However, it is estimated that it is likely to involve a recurring expenditure of about rupees fifty crores per annum. A non-recurring expenditure of about rupees twenty crores is also likely to be involved.

## BILL No. 115 OF 1992

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1992.

Insertion  
of new  
article  
46A.

2. After article 46 of the Constitution, the following article shall be inserted, namely:—

Identity  
and pro-  
tection of  
religious,  
linguistic  
and ethnic  
minorities.

“46A. The State shall respect the identity of the religious, linguistic and ethnic minorities at various levels and encourage its preservation, promote their educational and economic advancement, defend their dignity and protect them against violence.”.



## STATEMENT OF OBJECTS AND REASONS

India is a land of many religions, languages and races. While introducing the concept of equality before law and freedom of conscience and of religion, the Constitution also recognises the existence of religious and linguistic minorities and vests them, as distinct groups, with religious, educational and cultural rights, to be exercised as a group.

However, even after four decades of the coming into force of the Constitution, the minorities continue to feel that they do not have got their due share in employment and higher education. Despite many measures undertaken by the State, the minorities are still educationally and economically backward. There have been many incidents of violence affecting minorities. They look forward to State for their protection and defence.

The right of the minorities to exist as distinct cultural entities and to enjoy the full protection of the State and its laws, needs to be underlined. Such a duty imposed on the State shall be in accordance with our tradition of tolerance and our concept of unity in diversity. It shall oblige the State not only to respect the identity of the minorities at various levels and encourage its preservation but also to develop a national consensus in favour of plurality against monolithism.

Hence the Bill.

NEW DELHI;  
July 1, 1992.

SYED SHAHABUDDIN

## BILL NO. 119 OF 1992

*A Bill to provide for the application of the principles of secularism in Government and administration.*

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short  
title and  
extent.

1. (1) This Act may be called the Promotion of Secularism Act, 1992.
- (2) It extends to the whole of India.

Defini-  
tions.

2. In this Act, unless the context otherwise requires,—

(a) “force”, “fraud” and “inducement” shall have the same meanings as assigned to them in the Indian Penal Code, 1860;

45 of 1860.

(b) “religion” means the faith which a person professes;

(c) “Secularism” means the separation of the State and religion as well as non-discrimination by the State among citizens on the basis of religion.

Right to  
profess  
and  
practise  
religion.

3. Every citizen shall have the right to profess and practise the religion of his choice or follow the faith or form of worship as he deems fit and shall have the right peacefully to propagate his religion, faith or form of worship in order to persuade others to join his religion, faith or form of worship.

4. The State shall not interfere with the freedom of conscience and the right to freely profess, practise and propagate religion, faith or form of worship and shall protect every citizen from interference by others:

State  
not to  
interfere  
in reli-  
gious  
matters.

45 of 1860.

Provided that in case of allegation of use of force, fraud or inducement or physical threat or fear of such threat in the matter of exercise of such freedom, the provisions of the Indian Penal Code, 1860 shall apply on a complaint being filed by the aggrieved citizen.

5. (1) The State shall allot public land for construction of places of worship, for graveyards, cemeteries and cremation sites for seminaries and institutions for religious education on equitable terms and shall not cause any property, where religious worship is held or any religious rite is performed, to be removed, altered or changed in any manner except with the written consent of the affected people:

Allot-  
ment of  
land for  
religious  
purposes  
and  
removal  
of unau-  
thorised  
occupa-  
tion of  
religious  
places

Provided that where the public purpose requires such removal, alteration or change, the State shall notify it in the Official Gazette and may acquire it after giving due opportunity to the affected people to be heard, if they agree to the alternative site offered.

40 of 1971.

(2) The provisions and procedures contained in the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, shall apply in relation to the unauthorised occupation of religious places as they apply in relation to the unauthorised occupation of the public premises.

6. The State shall not permit any religious worship, or rite or ritual or ceremony or any religious symbol at any state function or on official occasion or in any public premises.

State  
not to  
permit  
official  
religious  
functions.

7. The State shall not incur any expenditure on the visit of Ministers or public servants to religious shrines or places of pilgrimage, except in course of public duty.

State  
not to  
incur  
expendi-  
ture on  
visits by  
public  
servants  
to reli-  
gious  
places,  
etc.

8. (1) The Central Government shall, within six months from the date of commencement of this Act, and thereafter at the expiration of every fifth year, appoint a commission to review the representation of various religious groups in Government services, in the public sector and their access to higher education and to suggest remedial measures for avoiding over-or-under representation of any religious group in such service or employment or education.

Commis-  
sion to  
review  
repre-  
sentation  
of reli-  
gious  
groups in  
employ-  
ment and  
education.

(2) The Commission shall consist of three members of whom the Chairman shall be a person who has been, or is eligible to serve as a Judge of a High Court or has been a Secretary to the Government of India.

State  
to ensure  
balance  
among  
religious  
groups.

9. The State shall, as far as possible, ensure balance among all religious groups in all its discretionary appointments.

Act to  
have  
over-  
riding  
effect.

10. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

## STATEMENT OF OBJECTS AND REASONS

The Constitution provides for freedom of religion and conscience but there is no law under which a citizen can secure State protection for exercising this right. Over a period of time secularism has come to be identified with a policy of equidistance towards all religions. This has meant in practice that religious rites are being performed on public occasions and religious shrines are being constructed on public premises.

Besides this, religious minorities continue to feel discriminated against in matters of public employment and access to higher education. Short of reservation on the basis of religion, remedial measures require to be taken by the State to remove any consistent pattern of over or under representation of any religious community.

Further, there are so many instances of public land being allotted and places of worship being refused construction or demolished or desecrated on a selective basis. All this calls for a Bill to translate the constitutional guarantee into a legal right and define rights and duties which should be legally enforceable.

Hence this Bill.

NEW DELHI;  
*July 1, 1992.*

SYED SHAHABUDDIN

## FINANCIAL MEMORANDUM

Clause 8 of the Bill provides for the appointment of a Commission to review the representation of various religious groups in Government services, in the public sector and their access to higher education. The Commission shall consist of three members of whom the Chairman shall be a person who has been, or is eligible to serve as, a Judge of a High Court or has been a Secretary to the Government of India. There will be some expenditure on the Commission and also on payment of salaries to the employees of the Commission. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees one lakh per annum.

It is also likely to involve a non-recurring expenditure of about rupees five thousand.

## BILL NO. 123 OF 1992

*A Bill to provide for the construction of a Constituent Assembly of India.*

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constituent Assembly Act, 1992.  
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In this Act, unless the context otherwise requires,—
  - (a) “Assembly” means the Constituent Assembly of India called in accordance with the provisions of this Act;
  - (b) “Committee” means the Drafting Committee;
  - (c) “Constitution” means the Constitution of India as in force on the date of commencement of this Act;
  - (d) “President” means the President of India.
3. (1) The President shall, within six months of the coming into force of this Act, declare by a notification in the Official Gazette, that the members of the two Houses of Parliament shall constitute a Constituent Assembly to consider the various provisions of the Constitution and to amend, modify, vary, omit, add or remodel the entire Constitution, if it so decides.

Short  
title and  
commen-  
cement,

Defini-  
tions.

Constitu-  
tion of  
Consti-  
tuent  
Assembly.

(2) The Speaker of Lok Sabha shall be the *ex-officio* Chairman of the Assembly.

(3) The rules of procedure to regulate the business of the Assembly shall be the existing rules of procedure and conduct of business in Lok Sabha with such modifications and alterations as may be made by the Chairman from time to time.

(4) The existing provisions regarding summoning, adjourning and proroguing the House of the People shall apply *mutatis mutandis* to the Assembly.

(5) The Assembly shall meet in the Central Hall of Parliament House, New Delhi.

Appoint-  
ment of  
Drafting  
Com-  
mittee.

4. (1) The Chairman shall, as soon as the Assembly is constituted, appoint a Drafting Committee consisting of not less than twenty-five members from amongst the members of the Assembly.

(2) The convener of the Committee shall be appointed by the Chairman from amongst the members of the Committee.

(3) The Committee shall submit amendments, modifications, variations, omission or addition of various provisions of the Constitution or remodelling of the entire Constitution, if it so decides, to the Assembly.

(4) The Assembly shall express its final opinion in the form of an amendment or in the form of a new Constitution, as the case may be, and submit the same to the President for his approval.

Promul-  
gation of  
revised  
Constitu-  
tion.

5. The President shall, after according his approval to such an amendment or the new Constitution, as the case may be, promulgate the same by notification in the Official Gazette on a day to be appointed by him.

Savings

6. Notwithstanding anything contained in any law, including Constitutional law, for the time being in force, such an amendment or the new Constitution on being promulgated in accordance with section 5 shall be deemed to have been adopted, enacted and given to themselves by the people of India without prejudice to anything done or purported to have been done under that law.



## STATEMENT OF OBJECTS AND REASONS

The Constitution of India is about to complete its forty-third year. During this period several amendments have been made in almost all the articles. Even then the work of amending the Constitution is incomplete. In view of the changing social, political and economic scenario, Private Members as well as the Government often bring amendments to the Constitution which take a lot of time of the House. Since a great deal of change in all spheres has taken place during the last four decades, the present Constitution is not in a position to meet all these growing challenges. Therefore, the only way out is that the present Parliament be converted into a Constituent Assembly to revise and/or remodel the entire Constitution.

Hence this Bill.

NEW DELHI;  
*June 30, 1992.*

MOHAN SINGH

## BILL NO. 117 OF 1992

*A Bill to regulate and register the marriages of Indian citizens with foreign nationals.*

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

**Short  
title  
and  
extent.**

1. (1) This Act may be called the Marriage with Foreign Nationals (Regulation and Registration) Act, 1992.

(2) It extends to the whole of India.

Marriage  
with  
foreign  
nationals,  
only with  
prior per-  
mission of  
Board for  
marriages.

2. Notwithstanding anything contained in any custom or personal law or any other law for the time being in force, no citizen of India shall marry a foreign national except with the prior permission of the Board for marriages constituted under section 3.

3. (1) The Central Government shall constitute an autonomous Board for marriages with foreign nationals in each State consisting of five persons including jurists, theologians or priests and social workers for scrutinising the proposals for marriages and for granting or refusing permission to the solemnisation of marriage:

Constitu-  
tion of  
Marriage  
Boards.

Provided that in case of a State of India where an *Imarate-e-Sharia* is in existence, the functions of the Board shall be performed by the *Imarate-e-Sharia* in case the Indian party is a Muslim and accepts the authority of the *Imarate-e-Sharia*.

(2) The Secretary of the Board shall act as the Marriage Registration officer for such marriages.

(3) The Board shall, *inter alia*, take into account the provisions of personal laws applicable to both the parties to the marriage, the relative economic and social status of the parties to the marriage both Indian and foreign, their age differential, the advice of the Government of the country to which the foreign national belongs, the views of the Indian mission accredited to that foreign state and the general terms of the proposed marriage.

4. A foreign national shall deposit a reasonable amount, to be determined by the Board, in addition to any amount payable under the personal law of the Indian partner to the marriage, in the form of an irrevocable fixed deposit in favour of the Indian partner with a scheduled bank in India to be paid to the Indian partner in the event of abandonment or irrevocable divorce or irretrievable breakdown of the marriage.

Foreign  
nationals  
to deposit  
an amount  
for marriage  
with an  
Indian  
citizen.

5. (1) Every marriage of a citizen of India with a foreign national on solemnisation, shall be registered with the marriage registration officer within four weeks of the date of solemnisation in the prescribed form by the Indian party to the marriage or his parent or guardian, duly supported by the person performing the marriage.

Marriages  
to be  
registered  
with the  
marriage  
registration  
officer  
within  
four  
weeks

(2) whoever fails to register a marriage shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees.

(3) Any person who acts as a professional intermediary or as a commission agent or abets the performance of a marriage without the permission of the competent authority shall be punishable with imprisonment which shall extend to one year or with fine which may extend to ten thousand rupees or with both.

6. (1) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

Power  
to make  
rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session, immediately following the session of the successive sessions aforesaid, both Houses agree in making any modification to the rule or both Houses agree that the rule should not be

made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Over-  
riding  
effect of  
the Act.

7. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

### STATEMENT OF OBJECTS AND REASONS

Of late there have been many instances of foreign nationals, mostly males, marrying Indian citizens on false pretences and later abandoning them with or without divorcing and marrying them to others on payment of consideration. Such marriages, indeed, amount to immoral traffic and constitute exploitation of Indian womanhood.

The fact that daughters are looked upon as a social burden and some of them remain unmarried upto an advanced age because of prevalent customs, makes the ground fertile for such operators.

In many cases, the credentials of the foreign nationals and their capability to maintain their spouses is also doubtful.

In view of this it appears to be imperative that such marriages should be regulated and should be performed only with the prior permission of the Central Government. Such permission should be given normally after due enquiry from the foreign government concerned and the Indian mission accredited to it.

Such regulation is bound to lead to the outcry that the Government in interfering with the personal law applicable to the Indian citizen concerned. The power of regulation may, therefore, in case of duly constituted religious authority therefore be restored to them.

Admittedly such regulation is bound to cause restraint even in legitimate cases. But in view of the prevailing situation, such marriages have to be regulated by suitable legislation both in the interest of the individuals and the society. The Government should, however, see to it that permission in genuine cases is granted expeditiously.

Hence this Bill.

New Delhi;  
July 2, 1992.

SYED SHAHABUDDIN

### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the Constitution of an autonomous Board for marriages with foreign nationals by the Central Government in each State for scrutinising the proposals for marriages and for granting or refusing permission to the solemnisation of marriage. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees fifty thousand per annum.

It is also likely to involve a non-recurring expenditure of about rupees twenty five thousand.

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### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

## BILL NO. 122 OF 1992

*A Bill to provide representation in Parliament to Indian nationals residing abroad.*

Whereas every citizen of India has a right to participate in the governance of the country.

And whereas elections to Parliament are held on the basis of adult suffrage;

And whereas a large number of Indian nationals who ordinarily reside abroad are keen to participate in the parliamentary elections to be held from time to time in India;

And whereas it is in the national interest to profit by their experience and ideas and to take notice of their problems and interests;

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:

1. (1) This Act may be called the Indian Nationals Abroad (Representation in Parliament) Act, 1992.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short  
title and  
com-  
mence-  
ment.

Right to  
vote to  
Indian  
nationals  
abroad.

2. Notwithstanding anything contained in any other law for the time being in force, there shall be formed, for the purposes of election to the House of the people, one or more Parliamentary constituencies of all citizens of India residing abroad, in a manner that each constituency covers a geographically contiguous area and the number of citizens of India residing therein is comparable to that of an average Parliamentary constituency in India.

Diplomatic and  
Consular  
Officer to  
assist  
Election  
Commission and  
to work as  
Election  
officer.

3. The Head of the Diplomatic Mission and the Consular officer of the Government of India in a foreign country shall be designated as an Electoral officer for the purpose of conducting an election and shall assist the Election Commission in conducting the election.

Election  
Commission to  
prepare  
electoral  
rolls of  
Indian  
nationals  
abroad.

4. The Election Commission shall prepare separate electoral rolls of Indian nationals residing abroad for each constituency referred to in section 2.

Power  
to make  
rules.

5. (1) The Central Government shall make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner of preparation of electoral rolls of Indian nationals residing abroad country-wise;

(b) the location of polling booths and appointment of polling officers;

(c) the delivery of ballot papers to the Electoral Officers and to the Polling Officers.

(d) transmission of used ballot papers;

(e) the counting of votes cast; and

(f) manner of transmission of result of the count to the Election Commission.

(3) The rules so framed shall come into force with immediate effect and shall be laid on the Table of the Houses of Parliament and if any rule is disapproved or modified by Parliament within forty days of its being so laid, it shall cease to be in force, or shall remain in force with such modification, as the case may be.



### STATEMENT OF OBJECTS AND REASONS

Over the years a large body of Indian nationals have come to reside ordinarily in foreign countries. They continue to take keen interest in the affairs of their country, but are unable to exercise their franchise because there is no machinery in existence to enable them to register themselves as voters or to vote in the elections.

For various reasons, it is considered impracticable for Indian nationals residing abroad to be registered as voters at their permanent residence in India and even if a citizen is registered, it is impracticable for him to receive the ballot paper and to cast his vote in his home constituency.

Keeping in view this difficulty, a new approach to the problem is proposed in this Bill. The Indian nationals residing abroad should form one or more parliamentary constituencies comparable, in the number of voters, to an average constituency in India. They could then be represented in Parliament as representatives of Indian nationals residing abroad. This would have the added advantage that these representatives would focus attention on the problems and reflect aspirations of the Indian community they represent and bring to bear on national affairs the views of their constituents and their experience. It may be added that under this scheme there could be a separate time schedule for elections to these overseas constituencies, in case it is difficult to hold them exactly at the same time when parliamentary elections are held in India.

This Bill shall remove a genuine grievance of Indian nationals residing abroad and strengthen their emotional bond with country of their origin.

Hence this Bill.

NEW DELHI;  
July 2, 1992.

SYED SHAHABUDDIN

## FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that the Election Commission shall prepare separate electoral rolls of Indian nationals residing abroad. Clause 5 provides for location of polling booths and appointment of polling officers. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees five lakhs per annum.

It is also likely to involve a non-recurring expenditure of about rupees five lakhs.

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## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill provides that the Central Government may make rules for carrying out the purposes of the Bill. These rules will relate to matters of detail only. The delegation of legislative power is of a normal character.

## BILL NO. 126 OF 1992

*A Bill to make provisions for the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry and to provide for matters connected therewith or incidental thereto.*

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Participation of Workers in Management Act, 1992.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, after giving not less than three months' notice of its intention so to do, by notification, appoint and different dates may be appointed for different provisions of this Act and for different classes of industrial establishments.

Short  
title,  
extent  
and  
com-  
mence-  
ment.

Defini-  
tions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means,—

(i) in relation to an industrial establishment—

(1) in respect of which the appropriate Government under the Industrial Disputes Act, 1947, is the Central Government,

14 of 1947.

(2) carried on by a company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government,

(3) owned by a body corporate having industrial establishments in more than one State,

the Central Government, and

(ii) in relation to any other industrial establishment, the Government of the State in which that other establishment is situate;

(b) “Board of Management”, by whatever name called, means a body which is entitled to exercise all or any of such powers and to do all or any of such acts and things as the body corporate is authorised, by law under which it is incorporated, to exercise and do in relation to the industrial establishment or establishments owned by it;

(c) “Council” means a Shop Floor Council or an Establishment Council constituted under section 4;

(d) “notification” means a notification published in the Official Gazette;

(e) “other worker” means a worker other than a workman;

(f) “prescribed” means prescribed by rules made by the appropriate Government;

(g) “Scheme” means a scheme framed under section 3;

(h) “shop floor” means a unit of an industrial establishment where any activity severable from other activities is carried out at a single place or contiguous places;

(i) “worker” means any person employed in any industrial establishment to do any manual, unskilled technical, operational, clerical, supervisory, managerial or administrative work for hire or reward whether the terms of employment be express or implied, but does not include any such person—

(i) who is subject to the Air Force Act, 1950 or the Army Act, 1950, or the Navy Act, 1957; or

45 of 1950.

46 of 1950.

62 of 1957.

(ii) who is employed in the police service or as an officer or other employee of a prison;

(j) “workman” means any worker but does not include any such worker who is employed mainly in a managerial or administrative capacity, draws wages exceeding rupees one thousand and six hundred per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature;

14 of 1947.

(k) words and expressions used but not defined in this Act and defined in the Industrial Disputes Act, 1947 shall have the meanings respectively assigned to them in that Act.

**3. The Central Government may, by notification, frame one or more Schemes for giving effect to the provisions of this Act.**

Participation of workers in Management Schemes.

**4. (1) There shall be constituted in every industrial establishment one or more Councils at the shop floor level and a Council at the establishment level in accordance with the provisions of the Scheme.**

Constitution of Councils.

(2) Notwithstanding anything contained in sub-section (1), Councils at the shop floor level shall not be constituted in an industrial establishment having only one shop floor.

(3) Each Council at the shop level (hereinafter in this Act referred to as the "Shop Floor Council") and Council at the establishment level (hereinafter in this Act referred to as the "Establishment Council") shall consist of equal number of persons to represent the employer and the workmen.

(4) The appropriate Government shall, in the consultation with the employer and after taking into account the following factors namely:—

(a) total number of workmen in the shop floor or industrial establishment;

(b) total number of representatives of the employer including the other workers in the shop floor or establishment;

(c) the number of levels of authority in the shop floor or establishment;

(d) the number of shop floors in an establishment; and

(e) such other factors as may be specified in the Scheme,

determine the number of persons who shall represent the employer and the workmen in a Council.

(5) The persons to represent the employer shall be nominated by the employer in such manner as may be specified in the Scheme.

(6) The persons to represent the workmen shall be elected by, and from amongst, the workmen of the industrial establishment, by secret ballot or nominated by the registered Trade Unions, in accordance with the Scheme.

Provided that a person representing the workmen shall cease to be a member of the Council when he ceases to be a workman in that industrial establishment and the vacancy so caused shall be filled in such manner as may specified in the Scheme.

(7) The Chairperson of each Shop Floor Council and Establishment Council shall be chosen by, and from amongst, the members thereof.

(8) The term of office of the members of each Council shall be three years from the date of the constitution of the Council.

(9) The procedure to be followed in the discharge of their functions by, and the manner of filling vacancies amongst, the Chairpersons and other members of the Councils shall be such as may be specified in the Scheme.

(10) The Shop Floor Councils and Establishment Council shall meet as and when necessary but not less than four meeting of a Council shall be held every year.

(11) Every Council shall conduct its business in such manner as may be specified in the Scheme:

Provided that in a case where a matter under consideration is beyond the jurisdiction of—

(a) a Shop Floor Council, the said matter shall be referred to the Establishment Council;

(b) an Establishment Council in relation to a body corporate, the said matter shall be referred to the Board of Management:

Provided further that in a case where the representatives of the employer and the representatives of workmen fail to agree on any matter, such matter shall be referred to the employer for decision.

Powers  
and func-  
tions of  
Councils.

5. (1) A Shop Floor Council shall exercise such powers and perform such functions as it may deem necessary in relation to the matters specified in Schedule-I.

(2) An Establishment Council shall exercise such powers and perform such functions as it may deem necessary in relation to the matters specified in Schedule II:

Provided that where no Shop Floor Council is constituted, the Establishment Council shall exercise such powers and perform such functions as it may deem necessary in relation to the matters specified in Schedule I also.

Board of  
Manag-  
ement.

6. (1) Notwithstanding anything contained in any other law for the time being in force, the Board of Management of every body corporate owning an industrial establishment or establishments shall include persons to represent workmen and other workers employed in that establishment or those establishments and the persons representing workmen shall constitute thirteen per cent. and the persons representing other workers shall constitute twelve per cent. of the total strength of such Board of Management:

Provided that in case of a fraction of a number, such number shall be rounded off to the nearest whole number and, for this purpose, where such fraction is one-half or more, it shall be increased by a whole number and if such fraction is less than one-half it shall be ignored:

Provided further that where the total strength of the Board of Management is not sufficient for giving representation to any workman, the Board of Management shall include at least one such person.

(2) The persons to represent the other workers shall be elected by, and from amongst, the other workers of the industrial establishment or establishments, by secret ballot, in accordance with the Scheme.

(3) The persons to represent the workmen shall be elected by, and from amongst, the workmen of the industrial establishment or establishments by secret ballot.

(4) The term of office of the representatives of the workers shall be three years from the constitution of the Board of Management:

Provided that a person representing the workmen or, as the case may be, other workers shall cease to be a representative on the Board of Management when he ceases to be a workman or other worker in an industrial establishment owned by the body corporate and the vacancy so caused shall be filled in such manner as may be specified in the Scheme

(5) For the removal of doubts, it is hereby declared that every representative of the workers shall exercise all the powers and discharge all the functions of a member of the Board of Management and shall be entitled to vote.

(6) The Board of Management shall review the functioning of each Shop Floor Council and the Establishment Council of the industrial establishment or establishments concerned.

7. If any person contravenes any of the provisions of this Act or the Scheme made thereunder, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to twenty thousand rupees, or with both.

8. (1) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly;

Offences  
by com-  
panies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm, means a partner in the firm

Cogni-  
zance of  
offences.

9. No court shall take, cognizance of any offence punishable under this Act save on a complaint made by or under the authority of the appropriate Government.

Ins-  
pectors.

10. (1) The appropriate Government may, by notification, appoint such persons as it thinks fit, to be Inspectors for the purposes of this Act and may define the limits within which they shall exercise their jurisdiction.

(2) An Inspector appointed under sub-section (1) may, for the purpose of ascertaining whether any of the provisions of this Act has been complied with,—

(a) require an employer to furnish such information as he may consider necessary;

(b) enter any establishment or any premises connected therewith at any reasonable time and with such assistance, if any as he thinks fit, and require any one found in charge thereof to produce before him for examination any books, registers and other documents relating to the employment of persons;

(c) examine with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person found in charge of the establishment or any premises connected therewith or any person whom the Inspector has reasonable cause to believe to be or to have been a worker in the establishment;

(d) make copies of, or take extracts from any book register or other document maintained in relation to the establishment;

(e) exercise such other powers as may be prescribed.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code.

45 of 1860.

(4) Any person required to produce any account, book, register or other document or to give information by an Inspector under sub-section (1) shall be legally bound to do so.

Monitor-  
ing Com-  
mittee.

11.(1) The appropriate Government may constitute a Monitoring Committee to review and advise the said Government upon matters arising out of the administration of this Act, any Scheme or any rules made thereunder

(2) The members of the Monitoring Committee shall be appointed by the appropriate Government and shall be of such number and chosen in such manner as may be prescribed:

Provided that the Monitoring Committee shall include an equal number of members representing—

(i) the appropriate Government,

(ii) the workers, and

(iii) the employers.

(3) The Chairperson of the Monitoring Committee shall be one of the members appointed to represent the appropriate Government nominated in this behalf by the appropriate Government.



(4) The appropriate Government shall publish by notification, the names of the members of the Monitoring Committee.

12. The appropriate Government may, be order in writing, exempt, subject to such conditions and restrictions as it may think fit to impose, any employer or class of employers from all or any of the provisions of this Act.

Power to exempt.

13. The provisions of this Act shall have effect notwithstanding any thing inconsistent therewith contained in any other law.

Effect of provisions of the Act inconsistent with other laws.

14. (1) The appropriate Government may, by notification, make rules to carry out the provisions of this Act.

Power of appropriate Government to make rules.

(2) Without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(i) the powers which an Inspector may exercise under clause (e) of sub-section (2) of section 10;

(ii) the number of the members of the Monitoring Committee and the manner in which they shall be chosen under sub-section (2) of section 11;

(iii) any other matter which has to be, or may be, prescribed under this Act.

15. (1) Every rule and every Scheme made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or the Scheme, or both Houses agree that the rule or the Scheme should not be made, the rule or Scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or Scheme.

Laying of rules and Schemes.

(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

16. Section 3 of the Industrial Disputes Act, 1947 shall be omitted.

Amendment of Act 14 of 1947.

## SCHEDULE I

(See section 5)

1. Production facilities.
2. Storage facilities in a shop.
3. National economy.
4. Operational problems.
5. Wastage control.
6. Hazards and safety problems.
7. Quality improvement.
8. Cleanlines.
9. Monthly targets and production schedules.
10. Cost reduction programmes.
11. Formulation and implementation of work system.
12. Design group working.
13. Welfare measures related particularly to the shop.

## SCHEDULE II

(See section 5)

*Operational areas*

1. Evolution of productivity schemes taking into account the local conditions.
2. Planning, implementation, fulfilment and review of monthly targets and schedules.
3. Material supply and its shortfall.
4. Storage and inventories.
5. House keeping.
6. Improvements in productivity in general and in critical areas in particular.
7. Encouragement to and consideration of suggestions.
8. Quality and technological improvements.
9. Machine utilisation knowledge and development of new products.
10. Operational performance figures.
11. Matters not resolved at the shop-level or concerning more than one shop.
12. Review of the working of the shop-level bodies.

*Economic and financial areas*

1. Profit and loss statement and balance-sheet.
2. Review of operating expenses, financial results and cost of sales.
3. Plant performance in financial terms, labour and managerial costs, market conditions, etc.

*Personal matter*

1. Absenteeism.
2. Special problems of women workers.
3. Initiation and supervision of workers' training programmes.
4. Administration of social security schemes.

*Welfare areas*

1. Operation details.
2. Implementation of welfare schemes, medical benefits and transport facilities.
3. Safety measures.
4. Sports and games.
5. Housing.
6. Township administration, canteen, etc.
7. Control of gambling, drinking and indebtedness.

*Environmental areas*

1. Extension activities and community development projects.
2. Pollution control.

## STATEMENT OF OBJECTS AND REASONS

Article 43A of the Constitution requires the State to take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry. So far, all the schemes pertaining to participation of workers in management have been non-statutory. At present, there is no central law on the subject. The non-statutory schemes have not been able to provide an effective frame-work for a meaningful participation of workers in management at all levels.

2. This Bill, *inter alia* intends to—

- (i) Provide for specific and participation of workers in management at shop floor level, establishment level and board of management level in industrial establishments;
- (ii) Provide for formulation of one or more schemes to specify detailed criteria, such as, the manner of representation of workmen on the shop floor and establishment level councils, and of workmen and other workers on the Board of Management, nomination of representatives of the employers on the shop floor and establishment level councils, procedure to be followed in the discharge of the functions by a council, the manner of filling the vacancies amongst the chairpersons and members in respect of shop floor and industrial establishment councils and conducting their business, etc.
- (iii) Provide for the principle of secret ballot for determining the representation of workmen on the shop floor and establishment level councils and of workmen and other workers on the Board of Management;
- (iv) Provide for rules to specify the power which an Inspector may exercise, the number of members of the Monitoring Committee and the manner in which they shall be chosen, etc.

3. The Bill seeks to achieve the above objects.

NEW DELHI;  
July 7, 1992.

VISHWANATH PRATAP SINGH

## FINANCIAL MEMORANDUM

Clause 3 of the Bill empowers the Central Government to frame one or more schemes for giving effect to the provisions of this Bill. Clause 4 provides that one or more Councils at the shop floor level and a Council at the establishment level shall be constituted in every industrial establishment. Clause 10 provides for the appointment of inspectors for the purposes of the Bill. Clause 11 provides for constitution of a Monitoring Committee to review and advise the appropriate Government upon matters arising out of the administration of this Bill, any scheme or any rules made thereunder. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India.

It is likely to involve a recurring expenditure of about rupees five lakhs per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees five lakhs is also to be involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 empowers the Central Government to frame one or more schemes by notification for giving effect to the provisions of this Bill. Since a scheme will have to specify, among other matters, the manner of representation of workmen on the shop floor and industrial establishment level councils and of workmen and other workers on the Board of Management, nomination of the representatives of the employers on the shop floor and industrial establishment level councils and also will lay down the procedure to be followed in the discharge of the functionings of the members at all levels and the manner of filling vacancies among chairpersons and members, the framing of a scheme, will, therefore, require consultation with and advice of the relevant Ministries or Department of the Central Government, State Governments and Union territories. It would therefore, be convenient to delegate these powers to the Central Government.

2. Clause 14 empowers the appropriate Government to make rules, by notification, to carry out the various provisions of this Bill on matters relating to the powers of Inspectors, manner in which the members of the Monitoring Committee will be chosen and any other matter which may be prescribed under the Bill. Since the rules to be made under this clause would be of a very detailed nature and would be made after thorough examination, it would be convenient to delegate this power to the appropriate Government.

3. The matters in respect of which the rules may be made under clause 14 are essentially matters of details and procedure. The delegation of legislative powers is thus of a normal character.

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C. K. JAIN.  
*Secretary-General.*